

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X	
MICHAEL FLANNERY,	: Index No.:
	:
Plaintiff,	: <u>SUMMONS</u>
	:
-v.-	:
	: Venue is based on
ROMAN CATHOLIC DIOCESE OF BROOKLYN;	: the Plaintiff's
ST DOMINIC PARISH and,	: Place of Residence
FATHER ARTHUR MINICHELLO,	:
	:
Defendants.	:
-----X	

To the above-named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the attached Verified Complaint of Plaintiff MICHAEL FLANNERY, dated October 4, 2019, a true and accurate copy of which is served upon you herewith. You must serve your Verified Answer upon the undersigned attorneys either (1) within twenty days after service of this Summons and the attached Verified Complaint, exclusive of the day you received it, if you were served personally in the State of New York, or (2) within thirty days after service, exclusive of the day you received it, if you were not served personally in New York State.

**PLEASE TAKE NOTICE** that should you fail to serve your Verified Answer within the time prescribed under applicable law, Plaintiff, MICHAEL FLANNERY, will take judgment against you by default for the relief demanded in the Verified Complaint pursuant to section 3215 of the New York Civil Practice Law and Rules.

Dated: New York, NY

October 4, 2019

Respectfully Submitted,

EISENBERG & BAUM, LLP

By: 

Eric Baum, Esq.  
Attorneys for Plaintiff  
24 Union Square East  
Fourth Floor  
New York, NY 10003  
(212) 353-8700

To:

ROMAN CATHOLIC DIOCESE OF BROOKLYN  
c/o Wingate, Kearney & Cullen  
45 Main St, Suite 1020  
Brooklyn, NY 11201

ST DOMINIC PARISH  
c/o Wingate, Kearney & Cullen  
45 Main St, Suite 1020  
Brooklyn, NY 11201

FATHER ARTHUR MINICHELO  
16625 12<sup>th</sup> Ave, Apt 3A  
Whitestone, NY 11357

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MICHAEL FLANNERY,

: Index No.:

Plaintiff,

:  
: **VERIFIED**  
: **COMPLAINT**  
:  
:

-v.-

ROMAN CATHOLIC DIOCESE OF BROOKLYN;  
ST DOMINIC PARISH AND  
FATHER ARTHUR MINICHELLO

Defendants.  
-----X

Plaintiff MICHAEL FLANNERY, by his attorneys, EISENBERG & BAUM, LLP, as and  
for his Verified Complaint against Defendants, states as follows:

**THE PARTIES**

1. Plaintiff MICHAEL FLANNERY is an individual residing in Brooklyn, New York.
2. Defendants ROMAN CATHOLIC DIOCESE OF BROOKLYN is a religious institution located in Brooklyn, NY [hereinafter “Diocese” or “Defendant”].
3. Defendant ST DOMINIC PARISH is a religious institution located at 2001 Bay Ridge Parkway, in Brooklyn, NY. [“Parish” or “Church” or “Defendant”].
4. Defendant FATHER ARTHUR MININCHELLO is an individual whose place of residence is unknown, however, during the time in question he was a resident of New York. He was at the employed by the Diocese and was also a member and leader of St. Dominic’s Parish during the relevant time period.

**JURISDICTION AND VENUE**

5. This Court has personal jurisdiction over the Defendants pursuant to C.P.L.R. §§301 and 302, because the Defendants are located in New York, reside in New York, and conducted their services in New York. St. Dominic's Parish is located in 2001 Bay Ridge Parkway, Brooklyn NY.

6. Venue is proper pursuant to C.P.L.R. § 503 based on Defendants' location in Brooklyn, NY, the location where the acts of child sexual abuse, complained of herein occurred.

**BACKGROUND**

7. Plaintiff (D.O.B. 6/14/1964) and his family moved to the Brooklyn neighborhood surrounding St Dominic's Parish around 1978, and became parishioners at the defendant church.

8. Shortly after moving to the parish, Plaintiff began attending mass at the defendant church every Sunday and joined the church CYO and basketball team, both of which were directed by Fr. Minichello, or "Father Arthur," as he was known to the children in the Parish.

9. St. Dominic's Parish purports to be a place where children are able to go and feel safe.

10. Despite the church and its' priests alleging to be a safe haven for kids, St. Dominic's Parish was not a place where children of any religion (or non-religion) were protected from sexual abuse by predatory priests like Father Minichello.

**SEXUAL ABUSE OF THE CHILD**

11. During the summer of 1978, Plaintiff (a minor at the time) ran into Fr. Minichello, in the rectory. Plaintiff explained that he was alone because his friends were at Manhattan Beach.

12. Fr. Minichello offered to drive Claimant to the beach in a Mercedes. During the drive on the Belt Parkway, Fr. Minichello started reaching across and putting one hand over Plaintiff's genitals, over the shorts he was wearing. Fr. Minichello began to rub the Plaintiff's genitals. Plaintiff pushed the priest's hand away, but Fr. Minichello insisted and immediately placed his hand back on the child's penis, masturbating him. Overpowered and paralyzed, Plaintiff was in shock as the priest sexually assaulted, battered and abused him. Fr. Minichello continued to masturbate Plaintiff until he ejaculated in his shorts. After this terrifying and humiliating incident, Plaintiff simply sat in the passenger seat mute until the priest dropped him off in the parking lot of Manhattan Beach and drove away. Plaintiff found his friends, but spent the rest of the day alone in shock while the rest of the children played.

13. About a week after the first incident of sexual abuse, Plaintiff decided to confront Fr. Minichello about the abuse. He went to the rectory in St Dominic's Parish and asked the secretary where Fr. Minichello was. She directed him to an office room. As soon as the Plaintiff entered the room, he barely had a chance to speak a few words before Fr. Minichello came at him, locked his upper body forcefully with his arms and wrestled him to the ground. Plaintiff was on the floor face up, with the priest straddling him. Fr. Minichello then went on to repeat the same abuse he had done in the vehicle. He masturbated him until the Plaintiff ejaculated. Plaintiff got up and left the room.

14. Due to the fear and humiliation that he experienced, Plaintiff never told anyone at the time that he had been sexually assaulted, battered and abused by Fr. Minichello.

15. Many years later, Plaintiff reported to the abuse to his mother Dawn Pastore and to his aunt Nancy Annunziato.

16. The pain and humiliation Plaintiff suffered as a child at the hands of the Fr. Minichello has caused him a lifetime of problems, including severe depression and psychological distress.

17. In order to deal with his depression and psychological distress, Plaintiff sought counseling in 2012. He went to Neighborhood Counseling Center in Brooklyn. There, he eventually disclosed the abuse that happened to him as a child. Revealing this abuse and discussing it was difficult and painful.

18. Fr. Minichello sexually abused, assaulted and battered Plaintiff, when Plaintiff was a child, and he did it while acting as a religious leader on behalf of and under the authority and supervision and control of St Dominic's Parish and the Roman Catholic Diocese of Brooklyn, and they are accountable for his actions, and for their failure to protect the children placed under their care.

19. Plaintiff suffered intense emotional pain and suffering, humiliation and fear as a result of the sexual abuse he experienced as a child.

### **CAUSES OF ACTION**

20. Pursuant to the New York Child Victims Act of 2019, "[E]very civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age ..... which is barred as of the effective date of this section because the applicable period of limitation has expired ...., is hereby revived." C.P.R.L. § 214-G.

21. In passing New York Child Victims Act of 2019, the New York Legislature recognized the ongoing problem and inequity that befell child victims of sex crimes and extended the statute of limitations 2019 N.Y. ALS 11, 2019 N.Y. Laws 11, 2019 N.Y. Ch. 11, 2019 N.Y. SB 2440, 2019 N.Y. ALS 11, 2019 N.Y. Laws 11, 2019 N.Y. Ch. 11, 2019 N.Y. SB 2440.

22. Pursuant to Section 130.52(1) of the New York Penal Law, which criminalizes “forcible touching”: “A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose: “forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire.” P.L. § 130.52(1).

23. Pursuant to Section 130.55 of the New York Penal Law, which criminalizes Sexual abuse in the third degree, “A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter`s consent.”

24. Under the New York Penal Law, “[s]exual contact” means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.” P.L. § 130.00(10).

25. Plaintiff was less than eighteen years old at the time of the incidents.

26. Defendant Fr. Minichello was an adult in a position of power and authority working for the Diocese and St. Dominic’s Parish.

27. On two separate occasions, Defendant Fr. Minichello forcibly touched Plaintiff’s genitals for Defendant’s own sexual gratification, degrading and abusing the minor Plaintiff. On

both occasions, Defendant, without Plaintiff's consent, touched Plaintiff's genitals, through his clothing, causing Plaintiff to ejaculate.

28. The Diocese and the Parish allowed Fr. Minichello to prey on children. It created an environment that allowed and emboldened Fr. Minichello to feel empowered enough to use his position of authority to abuse a child. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

29. As a direct and proximate result of Defendants' conduct, Plaintiff was caused to suffer a lifetime of psychological and physical conditions, as well as to endure severe emotional pain and trauma, depression and anxiety, all to his detriment.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully pray that this Court grant the following relief against the Defendants:

A. On the Cause of Action, enter judgment against the named defendants and an award of compensatory damages including, but not limited to damages for medical costs, emotional distress, physical injuries, punitive and/or exemplary damages and pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, to be determined at trial by the jury, and further relief as this Honorable Court deems just, equitable and proper;

Dated: New York, New York  
October 4, 2019

EISENBERG & BAUM, LLP

By: 

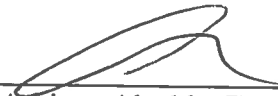
Eric M. Baum, Esq.  
Attorneys for Plaintiffs



24 Union Square East  
Fourth Floor  
New York, NY 10003  
(212) 353-8700

AND

By: \_\_\_\_\_

  
Adriana Alcalde, Esq. (Pro Hac Vice-  
Pending)  
Attorneys for Plaintiffs  
24 Union Square East  
Fourth Floor  
New York, NY 10003  
(212) 353-8700

VERIFICATION

STATE OF FL)  
COUNTY OF Palm Beach) ss.:

The undersigned, MICHAEL FLANNERY, shows:

Deponent is MICHAEL FLANNERY, Plaintiff in the above-entitled action.

Deponent has read the foregoing Verified Complaint dated October 4, 2019, and states that, to deponent's knowledge, the same is true except as to matters herein stated to be alleged upon information and belief; as to those matters, deponent believes them to be true.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: October <sup>8<sup>th</sup></sup> 2019

  
MICHAEL FLANNERY

Sworn to before me this  
8<sup>th</sup> day of October, 2019

  
NOTARY PUBLIC

